

REMARKS

In the final Office Action dated October 23, 2006, the Examiner rejected claims 1-3, 5, 6, 20, 21, 23, 25, 26, 35, and 36 under 35 U.S.C. § 102(b) as being anticipated by WO 96/28198 ("WO '198"); and rejected claims 4, 11-15, and 27-34 under 35 U.S.C. § 103(a) as being unpatentable over WO '198 in view of U.S. Patent No. 5,679,245 to Manica; rejected claims 7-10 under 35 U.S.C. § 103(a) as being unpatentable over WO '198 in view of the Journal of Membrane Science, 44 (1989) ("the Shettigar article"); rejected claims 16-19 under 35 U.S.C. § 103(a) as being unpatentable over WO '198 in view of U.S. Patent No. 5,536,412 to Ash; and rejected claim 22 under 35 U.S.C. § 103(a) as being unpatentable over WO '198 in view of U.S. Patent App. No. 2005/0043666 to Pan.

By this amendment, Applicant amends claims 1 and 35 and adds claims 37 and 38. Claims 1-38 are currently pending in this Application. Claims 1 and 35 have been amended to more clearly define the invention. No new matter is added by this Amendment.

Claim 1 has been amended to include, among other things, "the waste liquid discharge line having a first end and a second end, the first end of said waste liquid discharge line being connected with the second outlet of the treatment unit and the second end of said waste liquid discharge line not being connected with any other outlet or inlet of the same treatment unit." Claim 35 has been amended to include, among other things, "sending a non-filtered liquid from the second chamber of the treatment unit to a waste drain line, without returning any fluid passing through said waste liquid discharge line to any other inlet or outlet of said treatment unit, said waste drain line being connected to the second fluid outlet of the treatment unit." (Emphasis added.)

New claim 37 recites, among other things, an extracorporeal blood treatment device comprising “a first tube having only a first end and a second end, the first end of said first tube being connected only with the second outlet of the exchanger, and the second end of said first tube being connected only with the first inlet of the treatment unit.” New claim 38 recites, among other things, a method for the extracorporeal treatment of blood comprising the steps of “filtering all of the first filtrate coming from the second fluid outlet of the exchanger at least a second time by introducing all of said first filtrate in the first inlet of the treatment unit, and sending the first filtrate, after said first filtrate has been filtered a second time, through the input line to effect a pre-dilution of the blood to be treated.” Support for the amendments to claims 1 and 35 and for new claims 37 and 38 can be found in previously presented claims 1 and 35, respectively, in Figures 4-10, and in the specification at page 10, line 31 - page 11, line 2; page 13, lines 22-32, and page 15, line 30 - page 16, line 4, for example.

Applicants traverses the Examiner’s rejection of claims 1-3, 5, 6, 20, 21, 23, 25, 26, 35, and 36 under 35 U.S.C. § 102(b) as being anticipated by WO ‘198. Applicants submit that WO ‘198 fails to disclose or suggest all of the limitations of amended claims 1 and 35. The Examiner contends that “WO ‘198 teaches a device for the extracorporeal treatment of blood comprising a first filter (10) and a second filter (13) comprising membranes inherently separating chambers into a first chamber and a second chamber . . . a first outlet of the first chamber . . . and a second outlet of the second filter . . . the second outlet of the second chamber of the second filter (13) has a discharge line (see figure 2; page 4)(claims 1-3)” (emphasis added). (Office Action at 2.) In support of the rejection of these claims, the Examiner asserts that a “waste liquid

discharge line of the second chamber is interpreted as a line carrying a waste liquid from the outlet of the second chamber. The waste liquid discharge line is not given a meaning to a line connected to a drain or a waste liquid container as applicant might be intending to claim.” (Office Action at 6-7.) Applicants submit that the Examiner’s assertion regarding the waste liquid discharge line is inapplicable to amended claims 1 and 35, as well as new claims 37 and 38. Moreover, the rejection of claims 1 and 35 based on WO ‘198 is also misplaced.

In particular, WO ‘198 does not teach a “waste liquid discharge line having a first end and a second end, the first end of said waste liquid discharge line being connected with the second outlet of the treatment unit and the second end of said waste liquid discharge line not being connected with any other outlet or inlet of the same treatment unit,” as recited in amended claim 1. The Examiner has cited Figure 2 of WO ‘198 to allegedly disclose the waste liquid discharge line of claim 1. Figure 2, and the rest of WO ‘198, however, clearly fails to disclose or suggest a waste discharge line with a first end connected to the second outlet of the treatment unit and a second end that is not connected to any other outlet or inlet of the extracorporeal blood treatment unit, as recited in amended claim 1. Thus, amended claim 1 is allowable over WO ‘198. WO ‘198 also does not teach a method comprising the step of “sending a non-filtered liquid from the second chamber of the treatment unit to a waste drain line, without returning any fluid passing through said waste liquid discharge line to any other inlet or outlet of said treatment unit, said waste drain line being connected to the second fluid outlet of the treatment unit” (emphasis added), as recited in amended claim 35. As depicted in Figure 2, the alleged waste drain line disclosed in WO ‘198 returns fluid to an inlet of

another portion of the treatment unit. Thus, amended claim 35 is allowable over WO '198. Accordingly, claims 2, 3, 5, 6, 20, 21, 23, 25, 26, and 36 are allowable at least due to their dependence from allowable amended claims 1 and 35.

Regarding new claim 37, WO '198 does not disclose or suggest a device comprising "a first tube having only a first end and a second end, the first end of said first tube being connected only with the second outlet of the exchanger, and the second end of said first tube being connected only with the first inlet of the treatment unit" (emphasis added), as recited in new claim 37. WO '198 fails to disclose such a tube. Regarding new claim 38, WO '198 does not disclose or suggest a method comprising the steps of "filtering all of the first filtrate coming from the second fluid outlet of the exchanger at least a second time by introducing all of said first filtrate in the first inlet of the treatment unit, and sending the first filtrate, after said first filtrate has been filtered a second time, through the input line to effect a pre-dilution of the blood to be treated." WO '198 fails to disclose a method comprising such steps. Accordingly, new claims 37 and 38 are similarly allowable over WO '198.

Applicants also traverse the Examiner's rejection of claims 4, 11-15, and 27-34 under 35 U.S.C. § 103(a) as being unpatentable over WO '198 in view of Manica. The Examiner contends that Manica teaches "a waste liquid collection container (86) on a balance (92) and connected to an outlet of a blood treatment unit (44) with a pump" (Office Action at 4.) Applicants submit, however, that Manica fails to cure the deficiencies of WO '198, discussed above in reference to amended claim 1. Thus, claims 4, 11-15, and 27-34 are allowable due at least to their dependence from allowable amended claim 1.

Applicants traverse the Examiner's rejection of claims 7-10 under 35 U.S.C. § 103(a) as being unpatentable over WO '198 in view of the Journal of Membrane Science, 44 (1989). The Examiner contends that the Shettigar article teaches "an apparatus comprising two filters in series wherein the first filter has a cut-off value of 40,000 daltons and the second filter has cut-off value of 10,000 daltons such that it removes uremic solutes between 10,000 and 40,000 daltons." (Office Action at 4-5.) Applicants submit, however, that the Shettigar article fails to cure the deficiencies of WO '198, discussed above in reference to amended claim 1. Thus, claims 7-10 are allowable due at least to their dependence from allowable amended claim 1.

Applicants also traverse the Examiner's rejection of claims 16-19 under 35 U.S.C. § 103(a) as being unpatentable over WO '198 in view of Ash. The Examiner contends that Ash teaches "an extracorporeal blood treatment device comprising a plasma filter having cut off value of 50,000 to 6 million daltons wherein its membrane allows albumin or middle molecular weight molecules to transmit selectively over larger molecules to provide removal of toxins." (Office Action at 5.) Applicants submit, however, that Ash fails to cure the deficiencies of WO '198, discussed above in reference to amended claim 1. Thus, claims 16-19 are allowable due at least to their dependence from allowable amended claim 1.

Applicants also traverse the Examiner's rejection of claim 22 under 35 U.S.C. § 103(a) as being unpatentable over WO '198 in view of Pan. The Examiner contends that Pan teaches "an extracorporeal blood treatment device comprising a UV lamp (24) radiating a tube containing blood to kill HIV virus." (Office Action at 6.) Applicants submit, however, that Pan fails to cure the deficiencies of WO '198, discussed above in

reference to amended claim 1. Thus, claim 22 is allowable due at least to its dependence from allowable amended claim 1.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-38 in condition for allowance. Applicant submits that the proposed amendments of claims 1 and 35, and the addition of claims 37 and 38, do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.


In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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